

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : BONNEY, Stanley George *et al.*
Serial No. : 10/518,421
Filed : December 17, 2004

Title : *Actuation Indicator for a Dispensing Device*

Group / A.U. : 2841
Examiner : SMITH, Richard A.

Confirmation No. : 6763

Docket No. : PB60210USw

MAIL STOP PATENT EXT.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT UNDER §1.705(b)**

Sir:

Applicants respectfully submit that this Request for Reconsideration of Patent Term Adjustment under §1.705(b) is timely filed as it was submitted with the payment of the issue fee on December 10, 2008 and resubmitted in response to the Decision dated February 5, 2009. Applicants hereby request reconsideration of the decision that is being held in abeyance. Applicants enclose herewith a copy of the Decision dated February 5, 2009.

Applicants respectfully submit that the 565 days of Patent Term Adjustment (PTA) as indicated on the Notice of Allowance mailed on September 10, 2008 for the above-referenced application is incorrect and that the correct PTA should be 803 days of PTA.

Period of Adjustment Due to Patent Term Guarantees under 35 U.S.C. §154(b)(1)

Adjustment under 35 U.S.C. §154(b)(1)(A)(i): *Number of days beginning the day after the date that is fourteen months after the filing date and ending on the mailing date of an Office Action under 35 U.S.C. §132(a):*

December 17, 2004 + 14 months = February 17, 2006

February 18, 2006 → October 2, 2007 = + 592 days

Adjustment under 35 U.S.C. §154(b)(1)(B)(i): *Number of days beginning the day after the date that is thirty-six months after the filing date and ending on the filing date of a Request for Continued Examination under 35 U.S.C. §132(b):*

December 17, 2004 + 36 months = December 17, 2007

December 18, 2007 → August 11, 2008 = + 238 days

Total Adjustment Due to Patent Term Guarantees: 592 days + 238 days = 830 days

Period of Limitations to Patent Term Adjustment under 35 U.S.C. §154(b)(2)

Overlap under 35 U.S.C. §154(b)(2)(A): *Number of days beginning the day after the date that is thirty-six months after the filing date and ending on the mailing date of an Office Action under 35 U.S.C. §132(b) (See Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008)):*

December 17, 2004 + 36 months = December 17, 2007

December 18, 2007 is after October 2, 2007 => Overlap = 0 days

Reductions Due to Applicant Delay under 35 U.S.C. §154(b)(2)(C)(i):

Number of days beginning the day after the date that is three months after the mailing date of an Office Action and ending on the date the reply was filed (37 C.F.R. §1.704(b)):

January 3, 2008 → January 29, 2008 = - 27 days

Total Reductions to Adjustment Due to Limitations: - 27 days

Total Adjustment (Patent Term Guarantees – Limitations): 830 days - 27 days = 803 days

Accordingly, Applicants hereby request that the U.S. Patent Office correct the calculation of the Patent Term Adjustment for the present application to 803 days.

The present application ☐ is ; ☒ is not subject to any Terminal Disclaimer and any expiration date specified in a Terminal Disclaimer (§1.705(b)(2)(iii)).

☒ The following circumstances arose during prosecution of the above-identified application that constitute a failure to engage in reasonable efforts to conclude processing of examination of the application (§1.705(iv)(A)):

1. On January 29, 2008, filed response to Office Action mailed October 2, 2007: – 27 days

OR

☐ There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified application (§1.705(iv)(B)).

PAYMENT OF FEES (check one box)

NOTE: The Decision mailed February 5, 2009 states that “Applicant may seek such reconsideration without payment of an additional fee.” Accordingly, Applicants believe that no additional fees are due. If such fees are due, the Commissioner is hereby authorized to charge the required additional fees (\$200.00) or credit any overpayment to Deposit Account No. 07-1392.

☐ A check in the amount of \$_____ is enclosed for the consideration of this Request as required by 37 CFR §1.18(e).

☐ The Commissioner is hereby authorized to charge the required fees (\$200.00) or credit any overpayment to Deposit Account No. 07-1392.

Respectfully submitted,

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